UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

STAY THE COURSE WEST VIRGINIA, a West Virginia unaffiliated independent expenditure political action committee; **DAVID BAILEY**, in his capacity as Chairman and Treasurer of Stay the Course West Virginia; **PINEVILLE LUMBER, INC.**, a West Virginia Corporation; and **THOMAS STEPHEN BAILEY**,

Plaintiffs,

v. **Case No. 1:12-cv-1658**

NATALIE E. TENNANT, in her official capacity as West Virginia Secretary of State and member of the West Virginia State Election Commission; and **SCOTT ASH**, in his official capacity as Prosecuting Attorney for Mercer County, West Virginia, as a representative of the class of all West Virginia Prosecuting Attorneys,

Defendants.

MOTION FOR RELIEF FROM JUDGMENT

Now comes the Defendant, Natalie E. Tennant, in her official capacity as West Virginia Secretary of State and member of the West Virginia State Election Commission, by counsel, pursuant to Rule 60 of the Federal Rules of Civil Procedure, and moves the Court to amend and alter its Preliminary Injunction Order, dated August 9, 2012 (file document number 30). This motion is made on the grounds that, due to a clerical mistake in the citation of the West Virginia Code section and legislative rule section at issue, the Court's order is overly broad in its impact, exceeds the relief requested by the Plaintiffs and extends to matters not argued by the parties before the Court.

The Court's order enjoins the enforcement of the "$1,000 contribution limit set forth in West Virginia Code § 3-8-12 and West Virginia Code of State Rules § 146-3-5.2" and this language has the unintended effect of blocking the state's laws regarding contributions to candidates as well as to independent political action committees. The parties in this action have expressly limited their arguments to the application of the laws to contributions for independent expenditures by political action committees. In addition, by citing the whole of W. Va. Code §3-8-12 rather than the subsections cited by the Plaintiffs, the Court's order may unnecessarily extend to many other types of activities that are regulated under other provisions of W. Va. Code §3-8-12.

The Defendant respectfully requests that the Court either modify the order of August 9, 2012, or issue a revised order in which the language enjoining the Defendant from "enforcing the $1,000 contribution limit set forth in West Virginia Code § 3-8-12 and West Virginia Code of State Rules § 146-3-5.2 against Plaintiffs" be changed to read that the Defendant is enjoined from "enforcing the $1,000 limit on contributions, as set forth in West Virginia Code §§ 3-8-12(f) and 3-8-12(g) and in West Virginia Code of State Rules § 146-3-5.2, against the Plaintiffs, where those contributions are made to, or solicited or received by, persons or political action committees for the purpose of independent expenditures as defined by West Virginia Code §3-8-1a(15)."

This modification will limit the scope of the Court's order to those matters actually in dispute between, and argued by, the parties.

Respectfully submitted,
NATALIE E. TENNANT,
In her official capacity as
SECRETARY OF STATE OF
THE STATE OF WEST VIRGINIA,
and member of the WEST VIRGINIA
STATE ELECTION COMMISSION,
By counsel

DARREL V. McGRAW, Jr.,
ATTORNEY GENERAL

/s/ Doren Burrell

DOREN BURRELL (West Virginia State Bar #555)
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CERTIFICATE OF SERVICE

I, the undersigned attorney, hereby certify that I have, on this 10h day of August, 2012, electronically filed the foregoing "Motion for Relief from Order" with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel:

Allen R. Prunty
W. Bradley Sorrels
Counsel for the Plaintiffs

/s/ Doren Burrell